

ESTTA Tracking number: **ESTTA695403**Filing date: **09/11/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Champagne Louis Roederer
Granted to Date of previous extension	09/13/2015
Address	21 Boulevard Lundy Reims, 51100 FRANCE

Attorney information	John A. Clifford Merchant & Gould P.C. PO Box 2910 Minneapolis, MN 55402-9944 UNITED STATES jclifford@merchantgould.com, hkliebenstein@merchantgould.com, aavery@merchantgould.com, dockmpls@merchantgould.com Phone:612.336.4616
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**Applicant Information**

Application No	86424327	Publication date	03/17/2015
Opposition Filing Date	09/11/2015	Opposition Period Ends	09/13/2015
Applicant	Diane Delagrangue 809 Brogden Rd. Houston, TX 77024 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 039. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: Distribution services, namely, delivery of food products; Import services, namely, transportation of the merchandise of others in the nature of fresh produce, herbs, spices, seafood, frozen foods, oils, butter, chocolate, sauces, and truffles

**Grounds for Opposition**

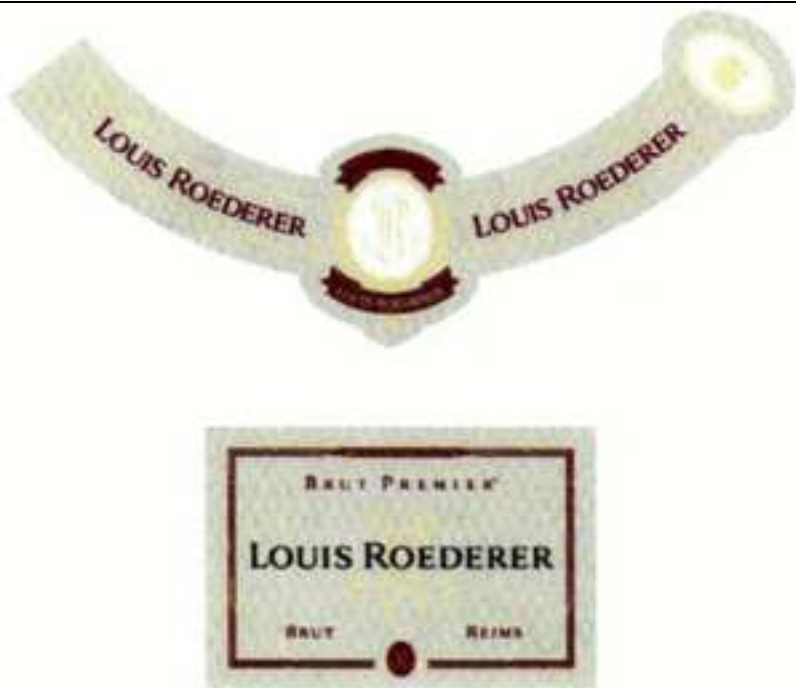
Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration	96996	Application Date	02/21/1912
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No.			
Registration Date	05/12/1914	Foreign Priority Date	NONE
Word Mark	LOUIS ROEDERER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1877/00/00 First Use In Commerce: 1877/00/00 CHAMPAGNE-WINE.		


U.S. Registration No.	1613179	Application Date	07/03/1989
Registration Date	09/11/1990	Foreign Priority Date	NONE
Word Mark	LOUIS ROEDERER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1877/00/00 First Use In Commerce: 1877/00/00 WINES		

U.S. Registration No.	3818492	Application Date	11/03/2008
Registration Date	07/13/2010	Foreign Priority Date	05/13/2008
Word Mark	LOUIS ROEDERER		
Design Mark			
Description of Mark	The mark consists of a label and a necklabel with predominantly grey background in a combination of a pattern of grey and gold. The neck label consists of a center medallion and two branches. The white, oval medallion is surrounded		

	by a gold colored scroll designs, within which are the letters "LR" in gold, stylized lettering. Above and below the medallion are designs of banners in dark red, and inside the lower banner are the words "LOUIS ROEDERER" in gold, stylized lettering. Both branches of the medallion contain the words "LOUIS ROEDERER" in dark red in stylized lettering surrounded by a gold border. The end of the right-hand branch is oval-shaped with a white oval with an exterior gray and gold border and an interior gold border. Within the oval is the design of a coat of arms in gold. The label is rectangular and has an interior dark red border/frame, the upper portion of which contains the words "MAISON FONDÉE EN 1776" in gold stylized lettering. In the center of the lower portion of the frame there is an oval medallion in dark red surrounded by gold scrolls, within which are the letters "LR" in gold. Within the frame are the words "BRUT PREMIER" in dark red, below which are the words "LOUIS ROEDERER" in gray-brown superimposed over the letters "LR" in gold, below which are the words "BRUT" and "REIMS" in dark red
Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 Alcoholic beverages except beers; wines; sparkling wines; wines of French origin, namely, wines with the protected appellation of origin Champagne

U.S. Registration No.	1614133	Application Date	01/09/1989
Registration Date	09/18/1990	Foreign Priority Date	NONE
Word Mark	ROEDERER ESTATE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1988/10/04 First Use In Commerce: 1988/10/14 WINES		

U.S. Registration No.	3385626	Application Date	06/21/2005
Registration Date	02/19/2008	Foreign Priority Date	03/22/2005
Word Mark	LR CRISTAL LOUIS ROEDERER CHAMPAGNE RL		

Design Mark	
Description of Mark	The mark consists of a three-dimensional configuration of a rectangular box that can be displayed in an open position via a hinged lid that is used as a container for the goods. The box is in a dark gold color and a medallion showing the letters LR interlaced and in a gold color on a white background is on the top of the container. The top of the container also contains a decorative straight-lined rectangular border in the color gold. Below the medallion appears the word CRISTAL in white lettering and a stylized design composed of curved lines appearing in a white color. On the long front side of the box, the wording LOUIS ROEDERER CHAMPAGNE appears in a maroon color and the interlaced letters RL appear in gold, above which appears the wording CRISTAL in white lettering. On the narrow front side of the rectangular box appears a maroon and gold crest composed of a double-headed eagle.
Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 Alcoholic beverages, namely, [ liqueurs, ] wines, sparkling grape wines; French-wines, namely, wines with the Champagne protected label of origin

Attachments	71061643#TMSN.png( bytes ) 79068100#TMSN.png( bytes ) 79012791#TMSN.png( bytes ) 2015 09 11 Notice of Opposition.PDF(243867 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/John A. Clifford/
Name	John A. Clifford
Date	09/11/2015

Champagne Louis Roederer,	)	Opposition No. _____
	)	
Opposer,	)	Serial No.: 86/424,327
	)	
v.	)	Mark : <b>ROEDERER USA &amp; Design</b>
	)	
Diane Delagrange,	)	
	)	
Applicant.	)	
	)	
	)	
	)	

Champagne Louis Roederer, a société anonyme also known as Champagne Louis Roederer (CLR) S.A., duly organized and existing under the laws of France, with a mailing address of 21, Boulevard Lundy, 51100 Reims, FRANCE, (herein Roederer or Opposer) believes that it will be damaged by the registration of the mark shown in Application Serial No. 86/424,327, filed October 15, 2014 by Diane Delagrange, an individual, with a mailing address of 809 Brogden Road, Houston, Texas 77024, and hereby opposes registration of the mark. It appears from the Assignments on the Web portion of the USPTO website, that Ms. Delagrange has filed both a change of name, apparently recorded on July 6, 2015 and later an assignment to a company apparently called Roederer USA, LLC also recorded on July 6, 2015 against this application. At the time of the publication of this application in the Official Gazette, the application was in the name Diane Delagrange. (Each of these parties collectively shall be referred to herein as Applicant or Delagrange.)

1. By the application herein opposed, Applicant seeks to obtain under the provisions of the Trademark Act of 1946, as amended, registration on the Principal Register of the

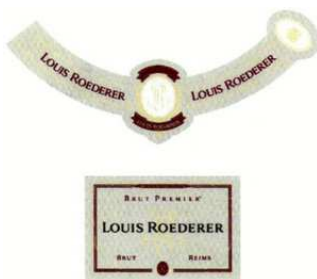
trademark ROEDERER USA & Design (hereinafter “Applicant’s Mark”) for “distribution services, namely, delivery of food products; Import services, namely, transportation of the merchandise of others in the nature of fresh produce, herbs, spices, seafood, frozen foods, oils, butter, chocolate, sauces, and truffles,” in International Class 39. The application (Serial No. 86/424,327) is based on an intention to use the mark in commerce.

2. Applicant’s Mark published for opposition on March 17, 2015 and Opposer obtained one ninety (90) day extension of time on April 16, 2014. This Notice of Opposition is timely filed.

3. Opposer is the owner of the following U.S. Trademark Registrations:

**LOUIS ROEDERER**, U.S. Reg. No. 0,096,996, used in connection with champagne-wine, in International Class 33. Said registration was registered on the Principal Register on May 12, 1914 and was based on a foreign registration filed in France on August 14, 1913, which is a date prior to the date of filing of Applicant’s application and prior to any alleged use by Delagrange of her mark. This registration is incontestable.

**LOUIS ROEDERER**, U.S. Reg. No. 1,613,179, used in connection with wines, in International Class 33. Said registration was registered on the Principal Register on September 11, 1990, with a first use date of 1877, which is a date prior to the date of filing of Applicant’s application and prior to any alleged use by Delagrange of her mark. This registration is incontestable.



**LOUIS ROEDERER & Design**, U.S. Reg. No. 3,818,492, used in connection with alcoholic beverages except beers; wines; sparkling wines; wines of French origin, namely, wines with the protected appellation of origin Champagne, in International Class 33. Said registration was registered on the Principal Register on July 13, 2010, and was based on International Registration Number 1,000,822 with a registration date of November 3, 2008, which is a date prior to the date of filing of Applicant’s application and prior to any alleged use of by Delagrange of her mark.

**ROEDERER ESTATE**, U.S. Reg. No. 1,614,133, used in connection with wines, in International Class 33. Said registration was registered on the Principal Register on September

18, 1990, with a first use date of October 14, 1988, which is a date prior to the date of filing of Applicant's application and prior to any alleged use of by Delagrange of her mark. This registration is incontestable.



**LR CRISTAL LOUIS ROEDERER CHAMPAGNE**

**RL & Design**, U.S. Reg. No. 3,385,626, used in connection with alcoholic beverages, namely, [liqueurs,] wines, sparkling grape wines; French wines, namely, wines with the Champagne protected label of origin, in International Class 33. Said registration was registered on the Principal Register on February 19, 2008 and was based on International Registration No. 0,855,293 with a registration date of June 21, 2005, which is a date prior to the date of filing of Applicant's application and prior to any alleged use of by Delagrange of her mark. This registration is incontestable.

4. Opposer's registered marks are valid and subsisting, and are prima facie evidence of Opposer's exclusive right to use said mark in commerce or in connection the goods and services specified in each registration. In addition, Reg. Nos. 0,096,996; 1,613,179; 1,415,213; 1,614,133; and 3,385,626 are incontestable under §15 of the Lanham Act (15 U.S.C. §1065), and are therefore conclusive evidence of the validity of the registered marks, of registration of the marks, of Opposer's ownership of the marks, and of Opposer's exclusive right to use the marks in commerce under §33(b) of the Lanham Act (15 U.S.C. §1115(b)).

5. Opposer also has common law rights in the name ROEDERER alone, having used the term by itself on all of its champagne products (except CRISTAL® champagne) for more than two decades without interruption. A representative example of such use is shown below, where the trademark ROEDERER appears on the neck wrapper of the bottle. Millions of impressions of this mark have appeared on the products made and sold by Opposer since a time

prior to either the first use claimed by Applicant, or the filing date of the application herein opposed.



6. Opposer has sold champagne since at least as early as 1877 under the mark LOUIS ROEDERER, as shown in U.S. Registration No. 96,996, and under the common law mark ROEDERER. Said use has been continuous since the date of first use and has not been abandoned. Registrant did not distribute its products in the United States during prohibition, but the products have been in continuous distribution in the United States since approximately December of 1937 when prohibition ended. The wines of Roederer are extremely well known, and enjoy an excellent and hard won reputation. Many of Roederer's wines receive excellent rankings and tasting scores in leading periodicals in the wine, beverage and food industry. At least twice recently, Roederer's CRISTAL® champagne has received a perfect score of 100 points in Wine Spectator magazine. Other competitive rankings and publications have similarly ranked Roederer's products extremely highly. Recognized wine writers such as Robert Parker, and Ed McCarthy have



commented very favorable on the wines made by Roederer, and have done so for many years. The publicity and renown generated by such extraordinary results is significant. Roederer, and Roederer's products have been named in numerous popular movies, television shows, books, magazines, social media and even many popular music song lyrics. Such use in such media is *prima facie* evidence of the secondary meaning of the names and marks involved.

7. Each of Roederer's sparkling wines includes the name ROEDERER on the bottle, resulting in widespread, continuous common law use of the ROEDERER name. Roederer distributes its wines and champagnes to wine shops, liquor stores, retailers authorized to sell wine, such as grocers, club stores, convenience stores and others who sell package goods for off premise consumption, where the product is often prominently displayed and shown as an attention grabbing product. The wines of Roederer are also sold in fine restaurants, hotels, clubs and others who sell wine for consumption on the premises. Many restaurants list Roederer's wines on their wine menu or wine card, often including the name and trademark ROEDERER on the wine menu, wine list, or wine card. With respect to Roederer's CRISTAL champagne, that product is often the most expensive, or one of the most expensive, wines sold by the restaurant or club. The name is seen by patrons who may not select a Roederer wine for consumption that day, but the brand is seen by millions of consumers on a daily basis.

8. The Roederer name is extremely well known by those who purchase wine for restaurants, such as sommeliers, wine stewards and club or restaurant owners, chefs, and purchasing agents. Roederer promotes its products and enhances its reputation by sponsoring wine dinners and other events where wines are sampled, and often where food is served. Such wine winners and similar events have been conducted by Roederer for many years. Tickets to attend such events are often highly sought after. Not long ago Roederer was a sponsor of the

Annual New Yorker Festival. Roederer sponsors numerous cultural events, art openings, sporting events, and other similar events where food and beverages are served. All of the above described events have taken place for many years, and certainly took place since a time long prior to the filing date of Delagrange's application or any alleged first use date made or claimed by Applicant.

9. As a result, the word ROEDERER points directly and immediately to Opposer, and serves as Opposer's identity and persona in the eyes of consumers, purchasers, and potential purchasers and has done so since long prior to Applicant's application filing date or any alleged first use date asserted or claimed by Delagrange.

10. Opposer has priority with respect to the mark at issue in this opposition. Opposer has had priority of use of the ROEDERER mark long before the October 15, 2014 filing date of Applicant's application or any alleged use date or first use date claimed by Delagrange.

11. Opposer's marks have been in use in interstate commerce, have been advertised and promoted by Opposer or its affiliates, and have developed and represent valuable good will to the benefit of Opposer. Opposer's marks have trademark significance to purchasers and potential purchasers. Opposer's ROEDERER mark is famous and well known, and was famous and well known prior to the filing date of the application herein opposed, and prior to any use date claimed or alleged by Ms. Delagrange.

12. Opposer's products are sold in the United States under the rules, regulations and laws that govern the sale and distribution of alcoholic beverages since prohibition ended in 1937. Consequently, Opposer employs an importer, and distributors to import, distribute and transport its goods on its behalf, and to stock retailers and points of consumption locations with the product consistent with applicable rules, regulations and the like. Each of parties in this chain of

distribution advertises and promotes the ROEDERER line of products consistent with the regulations applicable to them. It is believed these importers, distributors, transporters and retailers, as well as the point of consumption locations will be the same as, competitive with, or closely related to those channels of trade, means of importation, distribution and transportation to be employed by Applicant.

13. Applicant's mark is confusingly similar to Opposer's marks. The marks are confusingly similar in sight, sound, and meaning.

14. The goods and services sold, offered, or to be sold and offered by Applicant under Applicant's Mark are closely related to the goods sold by Opposer under Opposer's marks. Applicant approaches wine merchants such as restaurants and food venues, seeking to sell her truffles and other foods products. In many cases, these same restaurants and food venues are presently selling Roederer's products. In some cases, Ms. Delagrange has sponsored wine tastings, wine and food dinners, or other similar activities in an attempt to promote her products. On at least two occasions, individuals working in the wine industry contacted the importer of Roederer's products asking for tickets to attend events sponsored by Ms. Delagrange. These individuals were actually confused and believed that Ms. Delagrange's event conducted under the ROEDERER USA mark was being sponsored by Roederer, and that confusion was created by the confusing similarity of Applicant's mark and the close relationship of Applicant's services to the prior rights of Roederer.

15. Consumers are likely to view Applicant's goods and services as Opposer's goods or a line extension of Opposer's goods marketed under a confusingly similar mark. Consumers and potential consumers are likely to believe Applicant is associated with, sponsored by, or

affiliated with Roederer when that is not true. Applicant's mark creates a reasonable but false association with Roederer.

16. Opposer's and Applicant's products and services will be distributed, imported, transported and/or sold in the same or overlapping channels of trade to the same consumers or class of consumers.

17. Due to the similarity of Opposer's previously used ROEDERER trademark, its numerous U.S. federal registrations for its marks and the closely related nature of the goods and services of the respective parties, customers and potential customers are likely to believe that Applicant's products originate from Opposer, resulting in a likelihood of confusion in the marketplace and damage to Opposer.

18. The use or registration by Applicant of the mark ROEDERER USA & Design is likely to cause deception in the wholesale and the retail trade, among purchasers and potential purchasers, as to the nature of Applicant's products with Opposer's previously used ROEDERER marks, again resulting in damage to Opposer.

19. It is believed that Ms. Delagrange was well aware of Opposer and its reputation before selecting her mark, or filing an application to register that mark, and Ms. Delagrange selected her mark knowing that confusion as to source, deception as to the nature of her goods and false association with Opposer would result.

20. Because of the related nature of the goods and services of the parties, and the near identity of the marks, use and registration of the mark ROEDERER USA & Design by Applicant is likely to cause confusion as to source, mistake as to affiliation, association or sponsorship, and deception that Applicant's goods and services are those of Opposer or are otherwise endorsed, sponsored, or approved for Opposer causing further damage to Opposer.

21. Opposer's ROEDERER mark is famous and well known, and this has been true since a time prior to the first use of the mark by Applicant, and prior to the filing date of the application herein opposed. Applicant's mark creates dilution of the famous and well known ROEDERER mark, by blurring and tarnishing the ROEDERER mark and impairing the distinctiveness of the famous ROEDERER mark.

22. If Applicant is granted registration of the mark herein opposed, she would thereby obtain at least a *prima facie* exclusive right to the use of its alleged mark. Such registration would be a source of further damage and injury to Opposer, and could bar Opposer from obtaining future registrations of its ROEDERER Mark, or obtaining injunctive relief to protect the mark.

23. Registration of the mark shown in Application Serial No. 86/424,327 will result in damage to Opposer under provisions of §2(a), §2(d) §43(c) and of the U.S. Trademark Act, 15 U.S.C. § 1052, §1125 pursuant to the allegations stated above.

WHEREFORE, Opposer asks that its opposition to this application be sustained and that the registration of the proposed mark ROEDERER USA & Design set forth therein be refused. Please direct all correspondence to the attention of:

John A. Clifford  
Heather J. Kliebenstein  
Merchant & Gould P.C.  
P.O. Box 2910  
Minneapolis, MN 55402-0910  
Tel: 612-336-4616 Fax: 612-332-9081

Opposer hereby appoints: John A. Clifford; Danielle I. Mattessich; Heather Kliebenstein, Brian H. Batzli; Gregory C. Golla; Scott W. Johnston; Andrew S. Ehard; Christopher J. Schulte; and Brent Routman as its attorneys with the full power to represent the Opposer in connection with this proceeding.

Respectfully submitted,

CHAMPAGNE LOUIS ROEDERER S.A.

By its attorneys,

Dated: Sept. 11, 2015

/s/ John A. Clifford  
John A. Clifford  
Heather J. Kliebenstein  
Merchant & Gould P.C.  
PO Box 2910  
Minneapolis, MN 55402  
612.332.5300

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** was served, via first-class mail, postage prepaid this 11<sup>th</sup> day of September 2015.

Deborah L. Lively  
THOMPSON & KNIGHT LLP  
1722 Routh Street  
Suite 1500  
Dallas, TX 75201



Date: 09/11/2015

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Amanda Avery